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DATE: April 7, 2018

TO: Wisconsin Municipal Clerks
City of Milwaukee Elections Commission
Wisconsin County Clerks
Milwaukee County Elections Commission

FROM: Meagan Wolfe
Interim Administrator

SUBJECT: Central Count Absentee Guideline

Special Note: This guideline contains revisions formally adopted by the Government Accountability Board at its May 15, 2012 meeting and provides updates to procedures due to legislation affecting absentee voting as prescribed in 2011 Wisconsin Act 227.

Guideline—Central Count Absentee

This guideline was originally adopted by the Government Accountability Board at its December 13, 2011 meeting and was revised at the May 15, 2012 meeting. The guideline provides basic information for municipalities who want to utilize a municipal board of absentee ballot canvassers for counting absentee ballots on Election Day. Section 7.52, Wis. Stats., permits the governing body of a municipality to provide for the canvassing of all absentee ballots on Election Day by a municipal board of absentee ballot canvassers.

This guideline also provides basic requirements for establishing procedures for utilizing a municipal board of absentee ballot canvassers to count absentee ballots on Election Day. There are a number of administrative procedures clerks must develop to ensure an individual does not vote absentee and in person in the same election. In addition, these administrative procedures will ensure that votes cast by absentee ballot are properly reported in the canvass of election results.

Establishing a Municipal Board of Absentee Ballot Canvassers

If the governing body decides to authorize the canvassing of all absentee ballots on Election Day by a municipal board of absentee ballot canvassers, it must adopt an ordinance prior to implementation of these procedures. Section 7.52 (1), Wis. Stats. The municipal clerk is required to notify the Elections Commission in writing before the municipality adopts the ordinance and consult with Commission staff concerning administration of a central location for counting absentee ballots.

The governing body must also establish a municipal board of absentee ballot canvassers. Section 7.53 (2m), Wis. Stats. The municipal board of absentee ballot canvassers is made up of the municipal clerk and two other qualified electors of the municipality appointed by the clerk. Members of the municipal board of absentee ballot canvassers serve two-year terms beginning January 1st of odd-numbered years.

Polling Place Procedures for Municipalities with a Municipal Board of Absentee Canvassers

In general, a voter who did not receive an absentee ballot by mail or who chose not to return an absentee ballot is able to vote in person at the polling place on Election Day. However, a voter who returned an absentee ballot with an incomplete or missing certificate envelope (or who did not receive or return a replacement envelope) cannot vote in person at the polling place on Election Day. While not able to vote in person, voters with incomplete or missing certificate envelopes may correct the information on the envelope up to and including Election Day. Correction occurring at the central count location on Election Day may be done if the voter brings their original witness.

At the polling place, if a voter wants to receive a ballot, but has an absentee designation in the poll book, the election inspector must check the absentee ballot log to determine whether the absentee ballot was received by the clerk. If the absentee ballot log reflects that the voter's absentee ballot was received, the election inspector shall inform the voter that they cannot vote in person at the polling place pursuant to Wis. Stat. §6.86(6).

If there is no indication in the absentee ballot log regarding receipt of the voter's absentee ballot, the election inspector shall ask the voter: "Did you mail or personally deliver your absentee ballot to the clerk's office?" If the voter answers this question in the affirmative (yes), the election inspector shall inform the voter that they cannot vote in person at the polling place pursuant to Wis. Stat. §6.86(6). If the voter answers this question in the negative (no), the election inspector shall permit the voter to vote in person at the polling place.

Please note: A voter who did not receive a replacement ballot by mail or who chose not to return a replacement ballot is able to vote in person at the polling place. The absentee ballot log (EL-124) should indicate the first ballot was cancelled and a second ballot was issued. If the voter casts a ballot at the polls on election day, this should be noted on the inspectors' statement and the absentee ballot log.

General Election Day Procedures for Municipal Board of Absentee Ballot Canvassers

The municipal board of absentee ballot canvassers shall publicly convene between 7 a.m. and 10 p.m. on Election Day to count the absentee ballots for the municipality. The municipal clerk shall give notice of the meeting of the municipal board of absentee ballot canvassers at least 48-hours in advance. Any member of the public has the right to observe the proceedings of the municipal board of absentee ballot canvassers.

Election inspectors may be appointed to assist the municipal board of absentee ballot canvassers with counting the absentee ballots for the municipality. If appointed, there must be an odd number of inspectors, and there must be at least three inspectors present at all times while absentee ballots

are counted. For municipalities using party affiliated election inspectors, the party imbalance must be maintained.

Prior to the polls opening at 7 a.m. on Election Day, the municipal clerk shall identify and announce a website on which an absentee informational statement shall later be posted. No later than 8 p.m. on Election Day, the municipal clerk shall post an absentee informational statement in the clerk's office and on the website identified by the clerk. The statement shall list the number of absentee ballots that have been issued and the number of absentee ballots that have been returned by the close of the polls on Election Day. Wis. Stats. §7.52(1)(c). The statement shall not include the name or address of absentee voters.

Reconciliation of Poll Lists or Absentee Log

After any canvass of the absentee ballots is completed under Wis. Stats. §7.52, the board of canvassers shall reconcile the poll list, or absentee log, of the electors who vote by absentee ballot with the corresponding poll list of the electors who vote in person. This is to ensure that no elector casts more than one ballot. Wis. Stats. §§7.53(1) and (2)(d). The purpose of marking each elector's poll list number of on the back of their corresponding ballot is to allow for easy identification. This also allows for later rejection of the absentee ballot after the reconciliation of the poll list, or absentee log, of the electors who vote by absentee ballot with the corresponding poll list of the electors who vote in person, pursuant to Wis. Stats. §§6.86(6), 7.53(1), and (2)(d). Each ballot should be marked with the correct poll list number before being deposited in a ballot box or optical scan equipment.

If an elector who votes in person has also submitted an absentee ballot, the absentee ballot is void and only the in-person vote shall be counted. Wis. Stats. §7.53(2)(d). Reconciliation identifies electors who return an absentee ballot to the municipal clerk and also vote in person at the same election on Election Day, which is prohibited under Wis. Stats. §6.86(6). The board of canvassers shall prepare a list of electors for which an absentee ballot was voided because the elector voted in person on Election Day. The board of canvassers shall provide this list to the municipal clerk. Immediately following the election, the municipal clerk shall provide this list to the district attorney for review of whether any electors violated Wis. Stats. §12.13(1)(e).

Voter Lists

The municipal board of absentee ballot canvassers shall use two duplicate WisVote-generated copies of a single poll list for the entire municipality, or the WisVote-generated absentee ballot log for the entire municipality. The list shall be annotated with voter numbers beginning with the number 1, along with an indication that the voter cast an absentee ballot. If the voter's name does not appear on the poll list, the name and voter number shall be recorded on the supplemental poll list.

Procedures for Processing Absentee Ballots

No earlier than 7:00 a.m. on Election Day, the municipal board of absentee ballot canvassers shall open the carrier envelope or container in which the absentee ballots were delivered to the central count absentee ballot site so that any member of the public who is present may observe the opening.

The municipal clerk shall group together all absentee ballots with incomplete or missing certificates. The municipal board of absentee canvassers not process absentee ballots with incomplete or missing certificates until 8 p.m. on Election Day. Electors have the opportunity to correct an insufficiency on their certificate envelope at the central count location until 8 p.m. on Election Day. To do so, the elector must bring the original witness to the central count location. The municipal board of absentee canvassers shall provide a replacement certificate envelope to the elector, as necessary. After 8 p.m. on Election Day absentee ballots with incomplete or no certificates are processed as outlined below.

As each ballot is processed, the municipal board of absentee ballot canvassers is required to announce the name of the absentee voter so that any member of the public present may hear the voter's name. The municipal board of absentee ballot canvassers then carefully examine the certificate to determine if it is signed and witnessed and that the elector is a registered voter in the reporting unit for which the absentee ballot is being processed.

The municipal board of absentee ballot canvassers shall compare the certificate envelope to the list of ineligible voters provided by the Department of Corrections. If the absentee voter's name appears on the list, the municipal board of absentee ballot canvassers must challenge the absentee ballot.

The municipal board of absentee ballot canvassers should always carefully open the certificate envelope, remove the ballot from the certificate envelope and verify that the ballot has been initialed by the municipal clerk or a deputy clerk. NOTE: If the ballot does not contain the initials of either the municipal clerk or a deputy clerk, the omission is noted on the Inspectors' Statement (Form EL-104), and the ballot is processed. An absentee ballot is not rejected solely because the initials of the clerk or deputy clerk are missing.

The municipal board of absentee ballot canvassers marks the voter number on the back of the ballot and on the poll list, or WisVote-generated absentee ballot log, along with an indication that the voter has cast an absentee ballot.

If the poll list indicates the voter was required to provide proof of residence as a first-time voter, the municipal board of absentee ballot canvassers records the type of document provided on the poll list. If no proof of residence was provided, the municipal board of absentee ballot canvassers treats the absentee ballot as a provisional ballot.

The municipal board of absentee ballot canvassers may not count the absentee ballot and must mark the ballot as "Rejected" if:

- The voter is not a registered elector of the reporting unit;
- The absentee certificate envelope was open or had been opened and resealed (unless the municipal clerk can provide an explanation);
- The absentee certificate envelope contains more than one ballot of any one kind;
- The certificate of a military or overseas elector who received an absentee ballot by Fax or e-mail is missing;
- Proof is submitted that the elector has died.

The municipal board of absentee ballot canvassers may not count the ballot and shall mark the ballot as “Rejected” **after 8 p.m. on Election Day** if:

- The certification is insufficient (not signed or witnessed) or missing.

The reason for rejection shall be recorded on the certificate envelope and on the Inspectors’ Statement (Form EL-104) by the municipal board of absentee ballot canvassers. The rejected absentee ballots are placed in the brown envelope for rejected absentee ballots (Form EL-102).

After recording the voter number for a properly cast absentee ballot, the municipal board of absentee ballot canvassers will deposit the absentee ballot in the ballot box or optical scan voting equipment. The used certificate envelopes shall be placed in the white envelope for used certificate envelopes (Form EL-103).

Follow the Same General Procedures to Process Absentee Ballots as Used at the Polling Place

The municipal board of absentee ballot canvassers follows the same general procedures, and uses the same forms as those used at the polling place when processing, counting and securing absentee ballots. Duplicate original tally sheets and a single Inspectors’ Statement (Form EL-104) must be maintained for each reporting unit. Rejected absentee ballots and used certificate envelopes are not required to be maintained by reporting unit. Rejected absentee ballots may be placed in a single Rejected Absentee Ballot envelope or container. Used certificate envelopes may be placed in a single Used Certificate envelope or container.

Challenging Absentee Ballots

An absentee ballot may be challenged in the same manner as it would be challenged at the polling place. Any qualified elector of Wisconsin may challenge an absentee ballot.

The municipal board of absentee ballot canvassers shall challenge any absentee ballot cast by an elector whose name appears on the ineligible voter list. The municipal board of absentee ballot canvassers must follow the challenge procedures set out in the Election Day Manual and EL Chapter 9, Wis. Admin. Code using the EL 104-C to document the challenge.

If the municipal clerk issued a replacement absentee ballot as a result of a spoiled or damaged original ballot, and the municipal clerk or clerk staff does not believe the voter was the person to whom the original ballot was issued, an election inspector shall challenge the absentee ballot cast by that elector. The municipal clerk or clerk staff must attach a note to the absentee ballot certificate indicating the basis for the belief that the voter requesting the replacement ballot was not the person who requested the original ballot. The election inspectors may rely on the municipal clerk’s note to challenge an absentee ballot and then follow the challenge procedures set out in the Election Day Manual and EL Chapter 9, Wis. Admin. Code. The election inspectors use the EL 104-C to document the challenge and specifically enter information documenting the municipal clerk’s evidence/belief as the basis for the challenge.

Completing and Delivering Forms

The municipal board of absentee ballot canvassers shall carefully record the votes for each reporting unit on duplicate original tally sheets, which are signed by the board of absentee ballot canvassers and anyone who assisted in the counting. Municipalities utilizing an optical scan voting system shall use two machine printouts as tally sheets. However, write-in votes must be recorded on duplicate original tally sheets (Form EL-105). The ballots and materials are delivered to the municipal clerk following processing and counting of the absentee ballots, and after completing, recording and securing the required forms.

Miscellaneous Issues

Automatic tabulating devices must be properly set up, programmed and tested before Election Day to count absentee ballots by reporting unit for the entire municipality.

Detailed training, including checklists and instructions shall be provided to the municipal board of absentee ballot canvassers by the municipal clerk.

Questions and Comments

If clerks have questions on the utilization of a municipal board of absentee ballot canvassers to count absentee ballots contact the Elections Commission staff. We also encourage you to identify issues and detail procedures so that the central count absentee ballot process can be improved and shared with all clerks.